IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

Crl.MC.No. 956 of 2006()

CRIME NO.384/05 OF THE KALLAMBALAM POLICE STATION.

PETITIONER: COMPLAINANT:

JASMI N.,
MANSA MANSIL, MUDIYAKKODU, CHEMMARUTHI,
VADASERIKONAM, THIRUVANANTHAPURAM DIST.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

RESPONDENTS: STATE & ACCUSED:
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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUPERINTENDENT OF POLICE (RURAL),
OFFICE OF THE SUPERINTENDENT OF POLICE,
THIRUVANANTHAPURAM.

3. SUB INSPECTOR OF POLICE,
KALLAMBALAM POLICE STATION.

4. HONEY, S/O. MADHU,
LAL MANDIRAM, NELLIKKODU DESOM, OTTOOR VILLAGE.

BY PUBLIC PROSECUTOR SIR. P.N.A. KALAM.
SRI.PIRAPPANCODE V.S.SUDHIR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/11/2006, ALONG WITH CRMC NO.3583 OF 2006 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NOs. 956 & 3583 OF 2006

Dated this the 28th day of November, 2006

ORDER

The petitioners in these Crl.M.Cs. are the alleged victim and an accused (A2) in a prosecution under Secs.511, 354 and 366(A) read with Sec.34 of the IPC. Proceedings were initiated on the basis of a complaint filed by the father of the victim.

2. The crux of the allegations is that the principal accused - one Viswan, came in a motorcycle and intercepted the victim who was walking along the road with a friend of hers along the road. He allegedly assaulted the victim. In the meantime, another car came and stopped near them. There was an attempt to drag the victim into the car. The victim and the said companion made hue and cry. People of the locality also intervened. The attempt was foiled. The father of the victim thereupon, lodged the First Information Statement. A crime has been registered. Investigation is complete. Final report has been filed raising the allegations against the petitioner herein also alleging that he was one of the persons

who came in the car and tried to drag the victim into the car. Cognizance has been taken against the petitioner/2nd accused also.

3. It is at that stage that the victim initially and the 2nd accused later has come to this Court with applications under Sec.482 of the Cr.P.C. The 2nd accused had earlier come to this Court with Crl.M.C.No.2208/06 and the same was subsequently withdrawn.

4. The joint request made by the victim and the 2nd accused is that the 2nd accused is not in any way involved in the crime and that the proceedings against him are, in these circumstances, liable to be quashed. The victim asserts that the 2nd accused was not present at the scene.

5. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor opposes the prayer. The learned Public Prosecutor submits that evidently there has been some sort of agreement/understanding between the victim and the 2nd accused. They are speaking falsehood to claim absolution from liability for the 2nd accused. The vehicle of the 2nd accused was used in the commission of the offence. It was

seized and the same has been released to the 2nd accused. The learned Public Prosecutor has taken me through the statements given before the police by the victim, her companion and two witnesses who appear to have identified the 2nd accused as one of the persons involved in the crime.

6. I shall scrupulously avoid any expression of opinion on merits about the culpability of the 2nd accused. Suffice it to say that I am not persuaded at all to invoke the jurisdiction under Sec.482 of the Cr.P.C. to quash the charge on the basis of the joint request made by the victim/complainant and the 2nd accused. The submission of the learned Public Prosecutor that the petitioners, in these circumstances, appear to have struck some deal does not appear to me to be unacceptable at all.

7. These Crl.M.C. are, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy// P.S. to Judge

R. BASANT, J.

CRL.M.C.NOs. 956 & 3583 OF 2006

Dated this the 17th day of November, 2006

ORDER

In spite of specific directions issued earlier in Crl.M.C.No.956/06, it is seen that the Investigating Officer has not filed a report about the stage of investigation; nor a copy of the final report has been produced. Call finally for disposal on 27/11/2006.

2. The statement shall be filed by the Investigating Officer by the next date. If not, he shall appear in person to explain the relevant facts to this Court.

3. The learned Public Prosecutor shall convey this direction to the Investigating Officer.

(R. BASANT, JUDGE)

Nan/